

**Notice of Allowability**

Application No.

10/518,688

Examiner

Tamiko D. Bellamy

Applicant(s)

DUCRET ET AL.

Art Unit

2856

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 3/15/07.
2. ☒ The allowed claim(s) is/are 1-17.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

## **DETAILED ACTION**

### **EXAMINER'S AMENDMENT**

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Eugene Liberstein on 6/11/07.

The following changes have been made:

- a. Claim 1, lines 3 and 11, delete the word --control--.
- b. Claim 2, line 2, change the word "target", to --object--.
- c. Claim 2, line 3, delete the word --control--.

#### ***Allowable Subject Matter***

***Note: that even though the words determining the wetting of a wall of an object are not in the body of the claim, the examiner is giving patentable weight to the preamble which includes a device for determining wetting of a wall is a limitation that can not be ignored (See Id. at 1073, 828 F.2d at 75; Corning Glass Works v. Sumitomo Elec. U.S.A., Inc., 868 F.2d 1251, 1257, 9 USPQ2d 1962, 1966 (Fed. Cir. 1989); and In re Stencel, 828 F.2d 751, 4 USPQ2d 1071 (Fed. Cir. 1987).)***

2. Claims 1-17 are allowed.
3. The following is an examiner's statement of reasons for allowance:

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Re claim 1, the independent claim includes “ an emitter and receiver being respectively mounted on the ends of the waveguide external to the enclosure and with the object being placed between the waveguides” in combination with the remaining claim limitation is not taught and/or made obvious by the prior art. As depicted in fig. 1, Edward et al., considered closest to related art, teaches a enclosure/container for a liquid (e.g., liquid metal 3) (Col. 4, lines 4). Edward et al. teaches an object/reflector (14) immersed in liquid in the enclosure. Edward et al. teaches a steel transmitting probe (1) and a steel receiver probe (2) extending within the enclosure. **Edward et al. teaches the object/reflector (14) surfaces are provides with a coating, which prevents wetting by the liquid (3) (Col. 4, lines 5-9). This teaches away from the current invention, which determines the wetting of a wall of the object by the liquid. Furthermore, Edward et al. does not teach waveguides extending into the enclosure, the emitter and receiver mounted on the ends of the ends of the waveguides external to the enclosure and with the object being placed between the waveguides.**

Re claim 2, the independent claim includes “ an emitter and receiver being respectively mounted on the ends of the waveguide external to the enclosure ” in combination with the remaining claim limitation is not taught and/or made obvious by the prior art. As depicted in fig. 1, Edward et al., considered closest to related art, teaches an enclosure/container for a liquid (e.g., liquid metal 3) (Col. 4, lines 4). Edward et al. teaches an object/reflector (14) immersed in liquid in the enclosure. Edward et al. teaches a steel transmitting probe (1) and a steel receiver probe (2) extending within the enclosure. **Edward et al. teaches the object/reflector (14) surfaces are provides with a coating, which prevents wetting by the liquid (3) (Col. 4, lines 5-9). This teaches away from the current invention, which determines the wetting of a wall**

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**of the object by the liquid. Furthermore, Edward et al. does not teach waveguides extending into the enclosure, the emitter and receiver mounted on the ends of the ends of the waveguides external to the enclosure.**

4. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

#### ***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tamiko D. Bellamy whose telephone number is (571) 272-2190. The examiner can normally be reached on Monday - Friday 7:30 AM to 3:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams can be reached on (571) 272-2208. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Tamiko Bellamy

*T.B.*

June 11, 2007

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